

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ORIGINAL

MICHAEL J. QUILLING, Receiver
for Megafund Corporation and
Lancorp Financial Group, LLC,

Plaintiff,

v.

GARY McDUFF, Individually and d/b/a
SOUTHERN TRUST COMPANY and
FIRST GLOBAL FOUNDATION,
ROBERT REESE, Individually and d/b/a
EXCEL FINANCIAL, INC., and SHANNON
McDUFF, Individually and d/b/a SECURED
CLEARING CORP.,

Defendants.

CIVIL ACTION NO.

3-06 CV 0959-L

(JURY TRIAL DEMANDED)

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Michael J. Quilling, in his capacity as Receiver for Megafund Corporation and Lancorp Financial Group, LLC, ("Receiver") and files this his Complaint against Gary McDuff, individually and d/b/a Southern Trust Company and First Global Foundation, Robert Reese, and Shannon McDuff and in support of such would respectfully show unto the Court as follows:

Parties

1. Michael J. Quilling is the Receiver for Megafund Corporation and Lancorp Financial Group LLC, and other associated individuals and entities in an action pending before the United States District Court for the Northern District of Texas, Dallas Division, the Honorable Sam A. Lindsay presiding.

2. Defendant Gary McDuff, individually and d/b/a Southern Trust Company and First Global Foundation, is an individual residing in Texas who may receive service of process at 1318 Minchen Drive, Deer Park, Texas 77536.

3. Defendant Robert Reese is an individual residing in California who may receive service of process at 316 Mid Valley Center, #157, Carmel, California 93923.

4. Defendant Shannon McDuff is an individual residing in Texas who may receive service of process at 1314 Minchen Drive, Deer Park, Texas 77536.

Jurisdiction and Venue

5. This Court has jurisdiction over the subject matter of this action because the stated transactions involve Receivership Assets as described in the Court's Order Appointing Receiver. That Order states that all disputes relating to Receivership Assets must be filed in this Court. Furthermore, this Court has subject matter jurisdiction, in personam jurisdiction, and in rem jurisdiction under 28 U.S.C. § 754, § 1692, and Fed. R. Civ. P. 4(k)(1)(D).

6. Venue for this action is proper in the Northern District of Texas because: (1) this action is ancillary to the SEC Proceedings pending in this District; (2) the Receiver was appointed in this District; and (3) this action involves Receivership Assets within the meaning of the Order Appointing the Receiver, requiring that all such disputes be filed in this District.

Appointment of Receiver

7. On July 1, 2005 the Securities and Exchange Commission ("SEC") filed an action against numerous individuals and entities accused of defrauding millions of dollars from investors. That case is pending before the United States District Court for the Northern District of Texas in *Securities and Exchange Commission v. Megafund Corporation, et al.*, Case No. 3:05-CV-1328-L. In connection with that case, the SEC sought to have a Receiver appointed for the Defendants and

Relief Defendant. By Order dated July 5, 2005 the Court appointed Michael J. Quilling as Receiver for Megafund Corporation and others. He has since continued to function in that capacity. The Receiver filed notice of his appointment in the United States District Court for the Northern District of California on July 8, 2005, as required by 28 U.S.C. § 754. That notice is on file the Clerk as CV-05-80154-MISC.

8. The Court issued another Order on January 20, 2006 expanding the receivership to include Lancorp Financial Group, LLC and appointing Michael J. Quilling to act as Receiver. He has since continued to function in that capacity.

9. On May 11, 2006, the Court overseeing the SEC case issued an Order Reappointing Receiver for all entities and individuals in receivership. On May 19, 2006 the Receiver filed notice of his appointment in the United States District Court for the Southern District of Texas as required by 28 U.S.C. § 754. That notice is on file with Clerk as 06-CV-206.

10. The Receiver now brings this action against the Defendants to recover assets fraudulently transferred out of Megafund Corporation and Lancorp Financial Group, LLC.

Background Facts

11. Stanley A. Leitner (“Leitner”) operated a *Ponzi* scheme and fraudulent investment program through an entity under his direction and control called Megafund Corporation (“Megafund”). Leitner relied on friends and associates to solicit investors for Megafund in exchange for commissions or other compensation. These investors sent money to Megafund’s accounts at Wells Fargo Bank and SouthTrust Bank, believing Leitner would supervise those investments. Leitner assured investors that their funds would be sent to a “Trader” to execute various trades on their behalf and that their principal investments were never at risk. As Megafund received investor funds, however, Leitner fraudulently diverted large amounts as *Ponzi* payments to previous investors

and for other expenses not related to the investment program. Megafund was never managed in a manner consistent with Leitner's representations.

12. Gary McDuff ("McDuff") was one of Leitner's associates who helped solicit new investors. He was instrumental in recruiting contributions from Lancorp Financial Fund Business Trust ("Lancorp"), which ultimately became Megafund's largest investor. Between February 2005 and May 2005, Lancorp sent \$9,365,000.00 to Megafund on behalf of its numerous individual investors. For his efforts, McDuff received \$175,835.00 in compensation from Megafund plus an additional \$128,437.58 of shared "profit earnings" from Lancorp. Bank statements and corporate records show that McDuff had these funds sent to accounts in the name of MexBank SA de C.V. ("MexBank"), which were then transferred to various accounts at Cash Cards International, Inc. ("CCI") maintained by Gary McDuff, Shannon McDuff, and Robert Reese (collectively, "Defendants").

13. Assets from the Megafund Receivership Estate are clearly traced to Gary McDuff's home in Deer Park, Texas, as well as several accounts maintained by the Defendants. On April 26, 2005 Megafund wired \$175,835.00 to MexBank's account at CCI. The next day \$170,000.00 of those funds were forwarded to an account held by Gary McDuff/Southern Trust Company. From there, McDuff used \$152,401.55 to purchase his home at 1318 Minchen Drive in Deer Park, Texas, and transferred another \$11,500.00 to an account managed by Shannon McDuff/Secured Clearing Corp. A summary of these transactions is attached and fully incorporated for all purposes as Exhibit "A".

14. Similarly, assets from the Lancorp Receivership Estate can be traced to various accounts held by the Defendants. On March 29, 2005, Lancorp wired \$128,437.58 to MexBank's account at Union Bank of California. Within a week, \$70,000.00 of those funds were forwarded to

an account at CCI managed by Gary McDuff/First Global Foundation. McDuff then distributed \$45,792.89 to Robert Reese/Excel Financial, Inc. and an additional \$4,000.00 to Shannon McDuff/Secured Clearing Corp. These transactions are also depicted in Exhibit "A".

15. These assets, including the house at 1318 Minchen Drive, are undoubtedly proceeds from *Ponzi* scheme commissions and, therefore, fraudulent transfers as a matter of law. Accordingly, Defendants have no legitimate claim to these assets and must surrender them to the Receivership Estate.

COUNT ONE

Constructive Trust & Disgorgement

16. The Receiver incorporates paragraphs 1 through 15 set forth above, as if set forth verbatim herein.

17. In his capacity, the Receiver has a claim and interest in funds belonging to the above-named parties, along with any transfers, benefits, proceeds, or their equivalent value that can be traced to those funds. The funds paid to and obligations satisfied on behalf of Defendants constitute and are directly traceable to the funds of the defrauded investors. As such, they are impressed with a constructive trust and constitute Receivership Assets. Defendants should be required to disgorge their ill-gotten gains.

18. Pursuant to principles of equity, the Receiver seeks the imposition of a constructive trust upon all funds paid to Defendants and any property purchased, directly or indirectly, with those funds. The Receiver seeks disgorgement of all such assets, including the property at 1318 Minchen Drive or, alternatively, a money judgment in an amount equal to the funds received.

COUNT TWO

Fraudulent Transfer

19. The Receiver incorporates paragraphs 1 through 18 set forth above as if set forth verbatim herein.

20. The Megafund investment program was fraudulent and a *Ponzi* scheme. Consequently, all funds and benefits Defendants received from Megafund—either directly or through Lancorp—constitute fraudulent transfers. The Receiver is entitled to recover those assets or their proceeds from Defendants or, alternatively, a money judgment in the amount of funds received.

COUNT THREE

Fees, Expenses, Costs and Interest

21. The Receiver incorporates paragraphs 1 through 20 set forth above as if set forth verbatim herein.

22. As a direct result of the conduct of Defendants, as alleged above, it has been necessary for the Receiver to file this action. The Receiver sues for all costs, expenses, attorneys' fees and pre-judgment and post-judgment interest to which he is entitled under the law or at equity.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final trial hereof the Court enter judgment in favor of the Receiver and against Defendants as follows: (1) \$15,500.00 from Shannon McDuff, Individually and d/b/a Secured Clearing Corp.; (2) \$45,792.89 from Robert Reese, Individually and d/b/a Excel Financial, Inc.; and (c) \$242,979.69 from Gary McDuff, Individually and d/b/a Southern Trust Company and First Global Foundation. The Receiver further prays that the Court order Gary McDuff, Individually and d/b/a Southern Trust Company, to surrender the property at 1318 Minchen Drive in Deer Park, Texas, for resale by the Receivership Estate as a credit toward the judgment owed. Finally, the Receiver prays for pre- and post-judgment

interest, attorneys' fees, costs of court, and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

QUILLING SELANDER CUMMISKEY & LOWNDS, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
Telephone (214) 871-2100
Facsimile (214) 871-2111

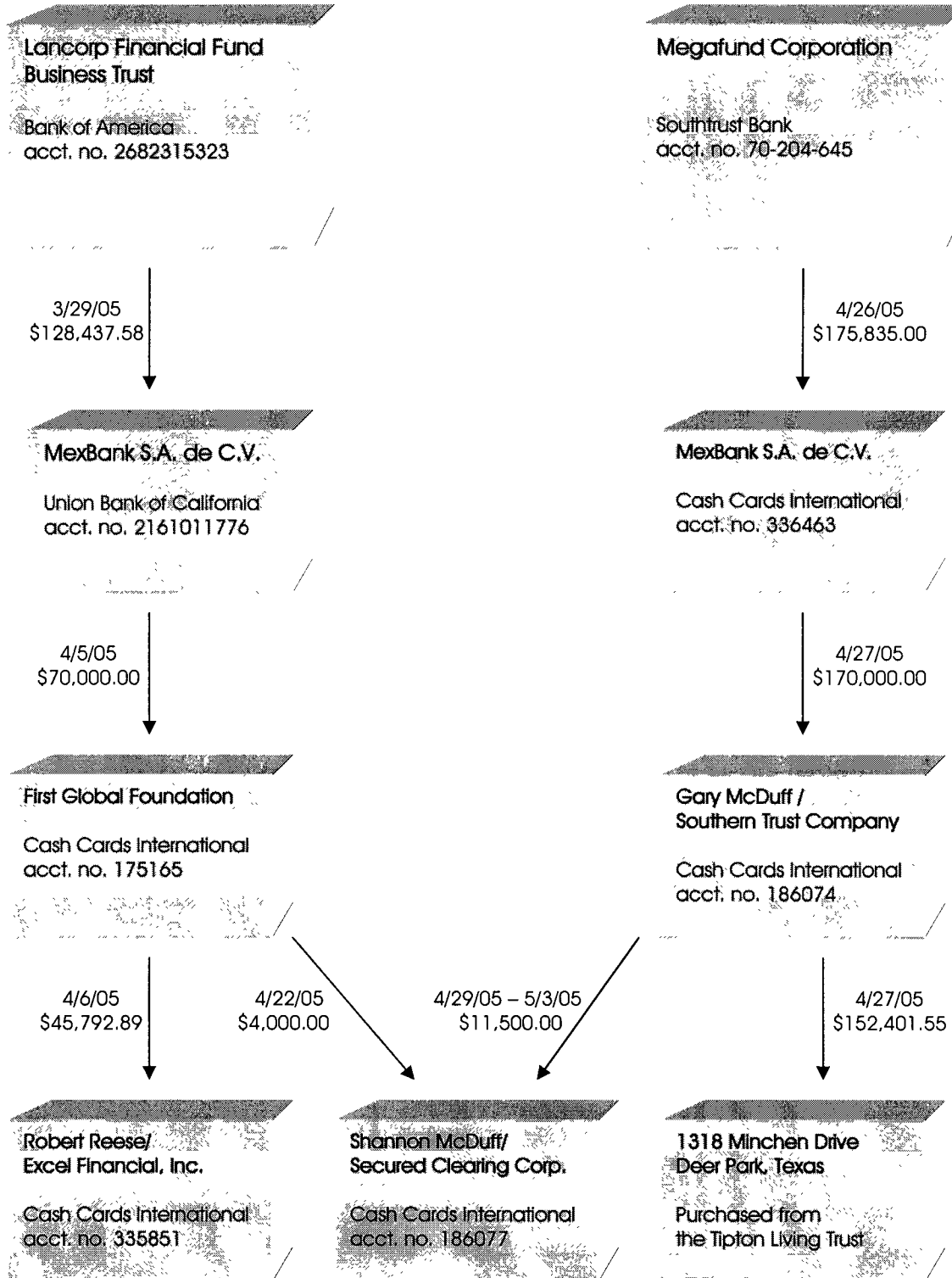
By:



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ATTORNEYS FOR RECEIVER

EXHIBIT "A"



JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained hereon neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Michael J. Quilling, Receiver for Megafund Corporation and Lancorp Financial Group, LLC	DEFENDANTS Gary McDuff, Individually and d/b/a Southern Trust Company and First Global Foundation, Robert Reese, et al.
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES) <div style="font-size: 2em; font-weight: bold; text-align: center;">ORIGINAL</div>	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED
(c) Attorney's (Firm Name, Address, and Telephone Number) Quilling Selander Cummiskey & Lownds, P.C., 2001 Bryan Street, Suite 1800, Dallas, Texas 75201, (214) 871-2100	Attorney's (Firm Name, Address, and Telephone Number) <div style="font-size: 1.5em; font-weight: bold; text-align: center;">06 CV 0959-L</div>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation														

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

VI. CAUSE OF ACTION Brief description of cause: Constructive trust and fraudulent transfer	VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 305,000.00 CHECK YES only if demanded in complaint JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE: Sam A. Lindsay DOCKET NUMBER: 3:05-CV-1328-L	DATE: 5/30/06 SIGNATURE OF ATTORNEY OF RECORD: [Signature]
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FOR OFFICE USE ONLY RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____	[Signature]
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